

Senate Bill 192

By: Senators Thomas of the 54th, Thompson of the 5th and Mullis of the 53rd

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

To amend Article 5 of Chapter 9 of Title 45 of the O.C.G.A., relating to insuring and indemnifying law enforcement officers, firefighters, prison guards, and publicly employed emergency medical technicians, so as to define certain terms; to provide that any emergency rescue or public safety worker who suffers a condition or impairment of health that is caused by hepatitis, meningococcal meningitis, or tuberculosis, that requires medical treatment, and that results in total or partial disability or death shall be presumed to have a disability suffered in the line of duty unless the contrary is shown by competent evidence; to provide for a verification that certain health related activities did not take place; to provide for immunizations; to provide for applicability to noncompulsory insurance; to provide for certain records and notices; to provide for preconditions for such presumption to become operative; to provide for applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 5 of Chapter 9 of Title 45 of the O.C.G.A., relating to insuring and indemnifying law enforcement officers, firefighters, prison guards, and publicly employed emergency medical technicians, is amended by inserting at the end thereof a new part to read as follows:

"Part 3

45-9-108.

As used in this part, the term:

(1) 'Body fluids' means blood and body fluids containing visible blood and other body fluids to which universal precautions for prevention of occupational transmission of bloodborne pathogens, as established by the Centers for Disease Control and Prevention, apply. For purposes of potential transmission of meningococcal meningitis or

tuberculosis, the term includes respiratory, salivary, and sinus fluids, including droplets, sputum, saliva, mucous, and other fluids through which infectious airborne organisms can be transmitted between persons.

(2) 'Emergency rescue or public safety worker' means any person employed full time by the state or any political subdivision of the state as a firefighter, paramedic, emergency medical technician, law enforcement officer, or correctional officer who, in the course of employment, runs a high risk of occupational exposure to hepatitis, meningococcal meningitis, or tuberculosis and who is not employed elsewhere in a similar capacity. Such term does not include any person employed by a public hospital operated by the state or a political subdivision of the state or any authority thereof or any person employed by a subsidiary of any such hospital.

(3) 'Hepatitis' means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C, or any other strain of hepatitis generally recognized by the medical community.

(4) 'High risk of occupational exposure' means that risk that is incurred because a person subject to the provisions of this part, in performing the basic duties associated with his or her employment:

(A) Provides emergency medical treatment in a setting other than a health care setting where there is a potential for transfer of body fluids between persons;

(B) At the site of an accident, fire, or other rescue or public safety operation, or in an emergency rescue or public safety vehicle, handles body fluids in or out of containers or works with or otherwise handles needles or other sharp instruments exposed to body fluids;

(C) Engages in the pursuit, apprehension, and arrest of law violators or suspected law violators and, in performing such duties, may be exposed to body fluids; or

(D) Is responsible for the custody, and physical restraint when necessary, of prisoners or inmates within a prison, jail, or other criminal detention facility, while on work detail outside the facility, or while being transported and, in performing such duties, may be exposed to body fluids.

(5) 'Occupational exposure,' in the case of hepatitis, meningococcal meningitis, or tuberculosis, means an exposure that occurs during the performance of job duties that may place a worker at risk of infection.

45-9-108.1.

Any emergency rescue or public safety worker who suffers a condition or impairment of health that is caused by hepatitis, meningococcal meningitis, or tuberculosis, that requires medical treatment, and that results in total or partial disability or death shall be presumed to have a disability suffered in the line of duty unless the contrary is shown by competent

1 evidence; provided, however, that in order to be entitled to the presumption, the emergency
2 rescue or public safety worker must verify by sworn declaration that, to the best of his or
3 her knowledge and belief:

4 (1) In the case of a medical condition caused by or derived from hepatitis, he or she has
5 not:

6 (A) Been exposed, outside the scope of his or her employment, through transfer of
7 body fluids, to any person known to have sickness or medical conditions derived from
8 hepatitis;

9 (B) Had a transfusion of blood or blood components, other than a transfusion arising
10 out of an accident or injury happening in connection with his or her present
11 employment, or received any blood products for the treatment of a coagulation disorder
12 since last undergoing medical tests for hepatitis, which tests failed to indicate the
13 presence of hepatitis;

14 (C) Engaged in unsafe sexual practices or other high-risk behavior, as identified by the
15 Centers for Disease Control and Prevention or the Surgeon General of the United
16 States, or had sexual relations with a person known to him or her to have engaged in
17 such unsafe sexual practices or other high-risk behavior; or

18 (D) Used intravenous drugs not prescribed by a physician;

19 (2) In the case of meningococcal meningitis, in the ten days immediately preceding
20 diagnosis, he or she was not exposed, outside the scope of his or her employment, to any
21 person known to have meningococcal meningitis or known to be an asymptomatic carrier
22 of the disease; and

23 (3) In the case of tuberculosis, in the period of time since the worker's last negative
24 tuberculosis skin test, he or she has not been exposed, outside the scope of his or her
25 employment, to any person known by him or her to have tuberculosis.

26 45-9-108.2.

27 Whenever any standard, medically recognized vaccine or other form of immunization or
28 prophylaxis exists for the prevention of a communicable disease for which a presumption
29 is granted under this part, if medically indicated in the given circumstances pursuant to
30 immunization policies established by the Advisory Committee on Immunization Practices
31 of the United States Public Health Service, an emergency rescue or public safety worker
32 may be required by his or her employer to undergo the immunization or prophylaxis unless
33 the worker's physician determines in writing that the immunization or other prophylaxis
34 would pose a significant risk to the worker's health. Absent such written declaration,
35 failure or refusal by an emergency rescue or public safety worker to undergo such
36 immunization or prophylaxis disqualifies the worker from the benefits of the presumption.

1 45-9-108.3.

2 This part does not apply to benefits payable under or granted in a noncompulsory policy
3 of life insurance or disability insurance unless the insurer and insured have negotiated for
4 such additional benefits to be included in the policy contract. However, the state or any
5 political subdivision of the state may negotiate a policy contract for life and disability
6 insurance which includes accidental death benefits or double indemnity coverage for any
7 condition or impairment of health suffered by an emergency rescue or public safety worker,
8 which condition or impairment is caused by a disease described in this part and results in
9 total or partial disability or death.

10 45-9-108.4.

11 The employing agency shall maintain a record of any known or reasonably suspected
12 exposure of an emergency rescue or public safety worker in its employ to the diseases
13 described in this part and shall immediately notify the employee of such exposure. An
14 emergency rescue or public safety worker shall file an incident or accident report with his
15 or her employer of each instance of known or suspected occupational exposure to hepatitis,
16 meningococcal meningitis, or tuberculosis.

17 45-9-108.5.

18 In order to be entitled to the presumption provided by this part:

19 (1) An emergency rescue or public safety worker must, prior to diagnosis, have
20 undergone standard, medically acceptable tests for evidence of the communicable disease
21 for which the presumption is sought, or evidence of medical conditions derived
22 therefrom, which tests fail to indicate the presence of infection. This paragraph does not
23 apply in the case of meningococcal meningitis; and

24 (2) On or after December 31, 2004, an emergency rescue or public safety worker may
25 be required to undergo a preemployment physical examination that tests for and fails to
26 reveal any evidence of hepatitis or tuberculosis.

27 45-9-108.6.

28 The presumption provided in this part shall apply throughout this Code; provided, however,
29 that this part shall not change the provisions for determining eligibility for disability
30 retirement benefits under any retirement or pension plan administered by the state or any
31 political subdivision of the state."

32 SECTION 2.

33 All laws and parts of laws in conflict with this Act are repealed.